



Botswana

Country Reports on Human Rights Practices - [2003](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 25, 2004

Botswana is a longstanding multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. Festus Mogae became President in 1998 and continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. The 1999 elections generally were regarded as free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties. The Government generally respected the constitutional provisions for an independent judiciary.

The civilian Government maintained effective control of the security forces. The Botswana Defense Force, which is under the control of the Defense Council within the Office of the President, has primary responsibility for external security, although it assisted with domestic law enforcement on a case-by-case basis. The Botswana National Police has primary responsibility for internal security. Some members of the security forces, in particular the police, occasionally committed human rights abuses.

The economy of the country, which had a population of 1.7 million, was market-oriented with strong encouragement for private enterprise through tax benefits. Approximately 32 percent of the labor force worked in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remained a serious problem, as did a widely skewed income distribution. Per capita gross domestic product decreased to \$3,523 from \$3,956 in 2001, according to the Bank of Botswana. Diamond exports provided approximately 80 percent of the export income and 50 percent of government revenues.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Police sometimes beat or otherwise mistreated criminal suspects to obtain evidence or coerce confessions. Authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor and in some cases life-threatening. The judicial system did not provide timely fair trials due to a serious and increasing backlog of cases. The Government continued to dominate domestic broadcasting and limited freedom of the press. Some citizens, including groups not numbered among the eight ethnic groups of the majority Tswana nation, remained marginalized in the political process. Violence and discrimination against women remained serious problems. Societal discrimination against ethnic Basarwa was a problem. Trade unions continued to face some legal restrictions, including those against the right to strike, and the Government did not always ensure that labor laws were observed in practice.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

During the year, the Botswana Center for Human Rights (BCHR) protested the executions of four convicted murderers, whose families and attorneys had not received prior notice of the executions, and criticized the secrecy surrounding executions.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution explicitly prohibits such practices, and the Government generally respected this prohibition in practice; however, instances of abuse occurred. There were reports that on occasion, police used beatings and other forms of intimidation to obtain evidence or elicit confessions. In some cases, the authorities took disciplinary or judicial action against persons responsible for abuses. Coerced confessions and evidence gathered through coercion or abuse are inadmissible in court.

Customary courts continued to impose corporal punishment in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and delinquency. Customary courts also administered corporal punishment to illegal immigrants from Zimbabwe.

There were unconfirmed reports that security forces used excessive force in repatriating illegal immigrants from Zimbabwe (see Section 2.d.).

Prison conditions remained poor, and in some cases life-threatening. The 24 prisons across the country had a capacity of 3,786 inmates, but held 6,120 at year's end. Overcrowding, which was worse in men's prisons, constituted a serious health threat because of the country's high incidence of HIV/AIDS and tuberculosis. The Government and prison authorities were aware of this health threat and cooperated fully with the Centers for Disease Control and Prevention in a 2002 study on the prevalence of tuberculosis in the prisons. HIV/AIDS testing and U.N. Development Program (UNDP) peer counseling were available to all prisoners. The Prison Commissioner has the authority to release terminally ill prisoners who were in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. From January through September, the Government released 1,392 prisoners under the extramural labor program. Foreign prisoners were required to serve their entire sentences.

The Prisons Act makes it illegal for prison officials to mistreat prisoners. The Department of Prisons is required to forward to police allegations of the mishandling of prisoners by prison officials.

Men were held separately from women, and juveniles were held separately from adults; however, pretrial detainees were held in the same facilities as convicted prisoners. A new prison for male juveniles was scheduled to open in 2004.

Prison violence was a problem. There were reports that prisoners were raped by other inmates, and some prisoners died in custody of HIV/AIDS-related illnesses. During the year, a violent incident between Botswana and Zimbabwean prisoners at a maximum security prison in Francistown resulted in the death of two inmates; two other inmates were seriously injured.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are appointed by the Minister of Labor and Home Affairs. Members of these committees serve 3-year terms, must visit their prison four times a year, and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports normally were not released to the public. During the year, the committees visited each prison quarterly.

The Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for "rehabilitative purposes;" however, the Commissioner of Prisons has the authority to decide whether domestic and international human rights organizations may visit. Independent monitoring of prison conditions by human rights groups, the media, or the International Committee of the Red Cross (ICRC) generally was allowed if these organizations sought permission from the Commissioner of Prisons; however, sometimes permission was denied. The BCHR was denied access to visit Lehlohonolo Bernard Kobedi, a Lesotho national sentenced to death for the murder of a police officer, following the organization's criticism of the executions of four convicted murderers (see Section 1.a.). The ICRC visited some prisons in September.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

There were 6,497 police officers in the country. National and local police do not carry firearms; only a small

specially trained unit was armed. Corruption was not common. Impunity generally was not a problem. During the year, 45 police officers were dismissed for failure to adhere to the police code of conduct or for involvement in criminal activities, and 569 officers were reprimanded for various acts of indiscipline.

Suspects must be informed of their legal rights upon arrest, including the right to remain silent. Detainees must be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Detainees have the right to contact a family member and to hire attorneys of their choice, but in practice, most were unable to afford legal counsel. Poor police training and poor communications in rural villages made it difficult for detainees to obtain legal assistance, and authorities did not always follow judicial safeguards. The Government did not provide counsel for the indigent, except in capital cases. Most citizens charged with noncapital offenses were released on their own recognizance; some were released with minimal bail. Detention without bail was highly unusual, except in murder cases, where it is mandatory. Incommunicado detention was rare, except for prisoners awaiting execution (see Section 1.c.). Constitutional protections were not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention was prolonged in numerous cases. In Gaborone Central Prison, the average wait in prison before trial was 1 year. The Government attempted to alleviate the backlog of cases by temporarily hiring more judges; however, the backlog of cases persisted.

Unlike in previous years, the Government did not hold newly arrived refugees and asylum seekers in local jails, but rather in the newly constructed Center for Illegal Immigrants in Francistown, a holding center administered by the Department of Prisons in the Ministry of Labor and Home Affairs (see Section 2.d.).

The law prohibits forced exile, and the Government did not use it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial; however, the civil courts remained unable to provide timely, fair trials due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts were public, although trials under the National Security Act may be held in secret. There was no jury system. Those charged with noncapital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants were not informed of their rights in pretrial or trial proceedings. There is a presumption of innocence, and defendants have the right to appeal. The BCHR provided free legal services, but its capacity was limited. The University of Botswana Legal Assistance Center provided free legal services in civil, but not criminal, matters.

The two Basarwa (also known as San or Bushmen) convicted of a 1995 murder were still awaiting retrial at year's end.

Most civil cases were tried in customary courts, under the authority of a traditional leader. These courts handled minor offenses involving land, marital, and property disputes. During the year, the Government amended the law so that foreigners may be tried in customary courts. In customary courts, the defendant does not have legal counsel, and there were no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the customary courts varied considerably. In some cases, tribal judges may mete out sentences such as public lashings (see Section 1.c.). In communities where chiefs and their decisions were respected, plaintiffs tended to take their cases to the customary court; otherwise, persons sought justice in the civil courts.

There is a military court system; civilians are not tried in military courts.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, in 2002, the Government forcibly resettled the Basarwa out of the Central Kalahari Game Reserve (CKGR).

At year's end, ethnic Basarwa remained in resettlement camps after the Government forced them to abandon their ancestral communities within the CKGR in 2002 (see Section 5). Government officials maintained that the resettlement program was voluntary and necessary to reduce the cost of providing public services and to minimize human impact on wildlife. During the year, the Government made no effort to relocate the few Basarwa who returned to the CKGR.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected freedom of speech in practice; however, the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The Government occasionally censored stories or news sources that it deemed undesirable.

The Botswana Press Agency, owned and operated by the Government, provided most of the information found in the media through the Daily News newspaper (distributed nationwide at no cost), Botswana Television (BTV), and two FM radio stations, Radio Botswana and Radio Botswana 2. News coverage in the state-owned media supported government policies and actions. The Daily News also published general coverage of current events and issues and included a second front page in Setswana, the most commonly spoken language.

The independent press was small but vigorous and had a long tradition of candid discourse. Reporters actively covered the political arena and frequently criticized the Government and the President without fear of closure. The circulation of privately owned print media continued to be limited primarily to the main cities and towns. By year's end, seven privately owned weekly newspapers were published in Gaborone and distributed to main cities and towns. One privately owned weekly newspaper was published in Francistown, the country's second-largest city. A total of 11 privately owned monthly magazines were published nationally.

Radio remained the most important medium of public communication. Two private radio stations, Yarona FM and Gabz FM, broadcast in 5 of the country's 10 largest towns; state-owned radio continued to be the only domestic radio service broadcasting to the rest of the country. Neither private radio station had a discernible policy of supporting a particular political party. The law provides for the issuance of broadcast licenses to private companies and provides copyright protection of broadcast material; the National Broadcast Board granted the licenses routinely.

BTV began broadcasting with technical and programming assistance from the British Broadcasting Corporation. Transmission extended south from Gaborone to Lobatse, north to Serowe and Francistown, and was scheduled to be available throughout the country within a few years.

The privately owned Gaborone Broadcasting Company (GBC) broadcast mostly foreign programming and was the only other television station operating in the country. GBC broadcasts reached viewers only in the capital area.

Independent radio and television broadcasts from neighboring South Africa were received easily in border areas. Satellite television from a South African-based company was available readily, although its cost prevented many persons from subscribing to the service.

In November, Minister of Communications, Science, and Industry Boyce Sebetela objected to the content and use of profanity during a call-in program called "Masa-a-sele" on the government-owned radio station and suspended the program indefinitely. Other government ministers criticized the independent media for failure to observe "sound journalistic practices."

The Court was unlikely to render a decision on whether the Government's 2001 ban on advertising in the Botswana Guardian and Midweek Sun constituted an unconstitutional suppression of speech and of the press.

Government officials sometimes complained of bias in the private press; however, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel is a civil law matter;

there are no criminal libel laws.

Internet access continued to spread, and there were 13 Internet service providers (ISPs). The Government did not restrict Internet usage. Private ISPs were at a competitive disadvantage due to the larger bandwidths dedicated to Botsnet, the commercial arm of the parastatal Botswana Telecommunications Corporation.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

In 2002, the Government required the Basarwa to relocate from the CKGR to one of three designated settlements outside of the reserve (see Sections 1.f. and 5.). The Government did not allow Basarwa who relocated to enter the CKGR without a permit, which was required of all visitors to enter the reserve; however, roadblocks around the CKGR were ineffective, and during the year, a few Basarwa reoccupied the territory.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and also provides protection to certain individuals who fall outside the definition of the Convention. In practice, the Government generally provided protection against refoulement and granted refugee status or asylum. The Government held newly arrived refugees and asylum seekers in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee, a governmental body whose Chairperson is the District Commissioner of Francistown, interviewed them. The United Nations High Commissioner for Refugees (UNHCR) is present with observer status at such interviews. Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum also were allowed to remain at Dukwe until the Government referred their cases to the UNHCR for resettlement.

The Center for Illegal Immigrants, which has a capacity of 504, held approximately 200 illegal immigrants at year's end. The UNHCR opposed the detention of asylum seekers at the Center on the grounds that asylum seekers should not be held in detention facilities. During the year, approximately 1,500 to 1,700 illegal immigrants from Zimbabwe were repatriated to Zimbabwe each week. There were unconfirmed allegations that security forces used excessive force in repatriating Zimbabweans; however, the Zimbabwean High Commissioner and the local Police Service refuted the allegations. The small number of Zimbabweans who requested asylum or refugee status were allowed to apply for official status.

There were approximately 3,800 refugees at Dukwe by year's end, primarily from Namibia, Angola, and Somalia. Refugees are permitted to reside outside Dukwe Refugee Camp with a permit from the Office of the President. An estimated 500 refugees, including a number of students, were living elsewhere in the country.

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since 1998. Many were armed and linked to the ethnically-based opposition groups based in the Caprivi Strip. During the year, 13 Namibian refugees were voluntarily repatriated; approximately 1,000 were repatriated in 2002. The decrease in repatriations resulted in part from flooding in the Caprivi region and refugees' fear to return. A total of 1,235 Namibian refugees remained at the Dukwe refugee camp at year's end.

In July, the Namibian Government applied to appeal the 2002 High Court decision to reject Namibia's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason. There were no further developments by year's end.

In December, the Government forcibly returned a separate group of eight Namibian refugees to Namibia, where seven of the eight were arrested on charges of high treason for their alleged role in the 1999 Caprivi uprising. Human rights groups protested the repatriations.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. The BDP has held a majority of seats in the National Assembly and has controlled the presidency continuously since independence. Membership in the dominant BDP confers some advantages, mostly in the form of government employment or provision of government services, such as water and utilities.

The House of Chiefs, an advisory body with limited powers, was restricted constitutionally to the eight principal ethnic groups of the majority Tswana ethnic group and four elected chiefs representing smaller ethnic groups, including the Bakalanga, Balozi, Hambukushu, and Bakgalagadi; other groups such as the Basarwa, Ovaherero, or Bayei consequently were not represented. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens largely was symbolic, but some non-ethnic Tswana viewed it as important in principle. No action to change this policy had been taken by year's end.

The 1999 National Assembly elections generally were regarded as free and fair by domestic and international observers; however, BDP candidates had preferential access during much of the campaign to state-owned media, including state-owned radio, the sole domestic source of news for most of the rural population (see Section 2.a.), and there were press reports of large anonymous campaign contributions to the ruling party, reportedly by international diamond interests. The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its incumbent presidential candidate, President Mogae. Of the seven seats won by opposition parties in 1999, the Botswana National Front won six, and the Botswana Congress Party won one.

There were 406 district governments with elected councilors, but they had no fiscal autonomy and relied on the central Government for revenue.

There were 8 women in the 44-seat National Assembly, 6 women in the 20-seat Cabinet, and 3 female justices in the 13-seat High Court. In 2002, Mosadi Seboko became the first female paramount chief in the country's history. In August, Seboko was elected chairperson of the House of Chiefs, the first woman to serve in this position. Another woman, Keatile Moremi, became regent of the Batawana tribe during the year.

The Constitution recognizes only the eight principal ethnic groups of the Tswana nation; however, members of ethnic groups not recognized in the Constitution participated actively in the Government, particularly members of the Kalanga and Bakalagadi ethnic groups. During the year, 13 members of minority ethnic groups held seats in the National Assembly, and 7 held seats in the Cabinet. Members of minority groups such as the Basarwa (San, Bushmen), Ovaherero, or Bayei were not represented in the Parliament.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups, including the BCHR, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views; however, some groups complained that the Government's cooperation was designed mainly to mute criticism and did not result in improved human rights conditions.

The Government cooperated with the UNHCR and UNICEF, as well as other international organizations.

There is an independent, autonomous ombudsman who handles human rights and other issues; the Government generally cooperated with the ombudsman.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution forbids governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government generally respected these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities. Women faced societal

discrimination, and there was societal discrimination against minority ethnic groups, particularly the Basarwa, who live in remote locations, where access to education, public services, employment, and land is extremely limited.

There is strong societal discrimination against persons with HIV/AIDS. Some employers fired HIV-positive employees after learning of their status, according to the Botswana Confederation of Commerce, Industry and Manpower. In October, an employee of the Botswana Building Society sued her employer for terminating her services after she refused to undergo an HIV test; the case was ongoing at year's end.

The Government funded community organizations that ran programs to reduce the stigma of HIV/AIDS. President Mogae, who has repeatedly encouraged senior government officials to speak out about HIV/AIDS, announced publicly in May that he tested negative for HIV.

Women

Domestic violence against women remained a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Greater public awareness and improved legal protection have resulted in increased reporting of domestic violence and sexual assault; however, police rarely were called to intervene in such cases. Half of the murders of women were linked to histories of domestic violence. Human rights activists estimated that 60 percent of women were victims of domestic violence at some time in their lives. The Police Service expressed concern that many women declined to prosecute their abusers, but there is no legal provision that empowers police and prosecutors to take action. National police officers were trained to handle domestic violence cases.

Rape was another serious problem, especially given the high incidence of HIV/AIDS. During the year, 1,184 incidents of rape were reported. By law, the minimum sentence for rape is 10 years increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his or her HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced; however, the test did not determine if the person was HIV positive at the time of the crime. Police lacked basic investigative techniques in rape cases. The law does not address marital rape; however, in August, a magistrate dismissed a case of alleged marital rape on the grounds that the marriage contract implies consent, making rape impossible unless a husband and wife were legally separated. The plaintiff, who had sought refuge in a women's shelter, had been abducted and raped repeatedly by her husband.

Prostitution is illegal, but was widespread throughout the country.

Sexual exploitation and harassment continued to be problems with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors.

Women legally enjoyed the same civil rights as men; however, in practice, societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities. A woman married under traditional law or in "common property" was held to be a legal minor and required her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under the law, women married under an intermediate system, referred to as "in community of property," were permitted to own immovable property in their own names; however, their husbands still retained considerable control over jointly held assets of the marriage. Moreover, the law also stipulates that neither spouse can dispose of joint property without the written consent of the other party. Women increasingly exercised the right to marriage "out of common property," in which case they retained their full legal rights as adults. Polygyny was legal under traditional law with the consent of the first wife, but it rarely was practiced.

The Government and local nongovernmental organizations (NGOs) focused on constructive methods to address discrimination against women in the areas of marital power, legal disabilities, and proprietary consequences of marriage under common law, customary law, and the Married Persons Property Act. Marriage laws, which set the marriage age for both men and women at 18 with parental consent and 21 without such consent, were generally respected.

Well-trained urban women enjoyed growing entry-level access to the white collar job market, but the number of opportunities decreased sharply as they rose in seniority. Discrimination against women was most acute in rural areas, where women engaged primarily in subsistence agriculture had few property rights.

Young women did not have access to military or national service training.

The Government and NGOs met regularly to implement the long-term plan of action described in the National Policy on Women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the UNDP, developed the Program Support Document in 1997, which provides a framework for implementation of the national policy on women. The Women's Affairs Department helped support a number of NGOs during the year, and the Department provided financial assistance for legal aid in cases of domestic violence and defilement.

Children

The rights of children are addressed in the Constitution and the Children's Act, and the Government remained committed to the protection of these rights. Under the law, the country has a court system and social service apparatus designed solely for juveniles.

The Government provided 7 years of free primary education for children, although attendance was not compulsory. Government estimates of the proportion of children who never attended school ranged from 10 to 17 percent, and fewer than 20 percent of children completed secondary school. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second largest portion to the Ministry of Local Government, which distributed books, food, and materials for primary education. The literacy rate was 80 percent: 82 percent for females and 77 percent for males. There were no credible reports during the year that girls were denied schooling.

UNAIDS estimated that 39 percent of persons between the ages of 15 and 49 were infected with HIV/AIDS; UNICEF reported there were 78,000 orphans in the country, due largely to deaths from HIV/AIDS. However, 28 percent of babies born from HIV positive mothers were protected from the virus, largely as a result of the Prevention of Mother to Child Transmission Program. The Government has registered approximately 41,000 orphans. Once registered, orphans may receive food baskets and school uniforms. Many children, mostly believed to be orphans, became beggars in urban areas, and some became prostitutes. Relatives increasingly denied inheritance rights to orphans.

Sexual abuse of students by teachers was a problem. Reports of rape and sexual assault of young women, and cases of incest and defilement of young girls appeared with greater frequency in the news. The age of sexual consent was 16. Child prostitution and pornography were criminal offenses, and the law stipulates a 10-year minimum sentence for defilement of persons under 16 years of age. In view of the belief held by some persons in southern Africa that intercourse with a virgin is a cure for HIV/AIDS, intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men continued to receive extensive media attention during the year.

Persons with Disabilities

There was some discrimination against persons with disabilities, and employment opportunities remained limited. The Government has a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking; however, the Government did not mandate access to public buildings or transportation for persons with disabilities. The Government funded NGOs that provided rehabilitation services and supported small-scale work projects by workers with disabilities.

Indigenous People

The Basarwa, who now chiefly inhabit the Kalahari Desert, are the earliest known inhabitants of the country. They were linguistically, culturally, and often morphologically distinct from the rest of the population; however, they were not a homogenous group. The Basarwa remained economically and politically marginalized, have lost access to their traditional land in fertile regions of the country, and were vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52,000 to 65,000 Basarwa represented approximately 3 percent of the country's population. Although the Basarwa traditionally were hunter-gatherers, most employed Basarwa worked as agricultural laborers on cattle ranches that belonged to other ethnic groups. During the year, a substantial proportion of the Basarwa resided in government-created Remote Area Dweller settlements and subsisted on government social welfare benefits.

The colonial government established the 20,000 square mile CKGR in 1961 to protect the food supply of some Basarwa groups still pursuing a subsistence hunter-gatherer livelihood; however, in 1995, the Government began to relocate the Basarwa to two settlements just outside the CKGR. In 2001, the Government delivered an

ultimatum declaring that all current residents of the CKGR would be removed and relocated. The Government continued to provide the Basarwa with water, healthcare services, and old age, orphan, and destitute benefits until January 2002, when all public services were terminated, and subsistence hunting licenses were revoked. In April 2002, the Government forcibly resettled all Basarwa from the CKGR to the government-created settlement areas of Kaudwane, New Xade, and Xere, where the facilities had to cope with a doubling of population without an increase in resources. During the year, the Basarwa continued to struggle with the lack of services and opportunities in the relocation areas. Basarwa groups have called for the Government to recognize their land use system and to grant them land rights.

A number of NGOs have made efforts to promote the rights of indigenous people; however, the programs have had limited impact. In September, an international conference was held to address the needs of the Basarwa, particularly the educational needs of the children.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of workers' association, and in practice, all workers except government employees were free to join or organize unions of their own choosing. The industrial or wage economy was small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There was only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there were no obstacles to the formation of other labor federations. Some labor laws were not yet compliant with the International Labor Organization. In August, the Employer's (Amendment) Act, which protects wage claims in the event of employer insolvency, became law.

Unions were independent of the Government and were not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full-time in the industry that the union represents. This rule severely limited union leaders' professionalism and effectiveness and was criticized by the International Confederation of Free Trade Unions (ICFTU). In July, Parliament passed a law eliminating this requirement; the law was awaiting signature by the President at year's end.

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than 2 months' severance pay.

Unions may join international organizations, and the BFTU was affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement; however, unions may appeal to the courts if an application for affiliation is refused.

b. The Right to Organize and Bargain Collectively

The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force; however, only the mineworker and diamond sorter unions had the organizational strength to engage in collective bargaining.

The law severely restricts the right to strike. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

The Government did not establish a separate pay structure for teachers, reversing a pledge made in 2001. Unlike in the previous year, there were no strikes by University of Botswana staff and students or by the Botswana Unified Local Government Service Association.

The country has only one export processing zone, located in the town of Selebi-Phikwe, and it was subject to the same labor laws as the rest of the country.

c. Prohibition of Forced or Bonded Labor

The Government does not prohibit forced and bonded labor, including by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment of Children

Child labor is addressed in the Children's Act; however, some child labor occurred. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry without permission from the Commissioner of Labor. No organization has petitioned the Commissioner for such permission. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining.

District and municipal councils had child welfare divisions, which were responsible for enforcing child labor laws; however, no systematic investigation has occurred. The Labor Commissioner; officials of the Ministry of Local Government, Lands, and Housing; and UNICEF generally agreed that child labor was limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers.

The law provides that adopted children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution; however, HIV/AIDS has resulted in numerous orphans who were forced to leave school to care for sick relatives and who were vulnerable to such exploitation.

e. Acceptable Conditions of Work

The minimum daily wage for most full-time labor in the private sector was \$3.15 (17 pula), which remained less than 50 percent of what the Government calculated as necessary to provide a decent standard of living for a worker and family. The Cabinet determined wage policy based on recommendations made by the National Economic, Manpower, and Incomes Committee, which consists of government, BFTU, and private sector representatives. The Ministry of Labor was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in 1 to 2 year backlogs in resolving such disputes.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs had a 40-hour workweek; however, the public sector had a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired; however, the Government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provided for worker safety, with an occasional exception in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, were exploited easily in labor matters, since they would be subject to deportation if they filed grievances against their employers.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnapping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution; however, there were unconfirmed reports that women were trafficked through the country to other destinations. There were reports that some children who were orphaned by HIV/AIDS became prostitutes in urban areas (see Section 5).

In December, police, in cooperation with South African police, launched an intensive program to increase control at certain border points, including efforts against trafficking.